

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**MISSOURI ELECTRIC COOPERATIVES,  
D/B/A ASSOCIATION OF MISSOURI ELECTRIC  
COOPERATIVES, ET AL.**

**APPELLANTS,**

**v.**

**MISSOURI SECRETARY OF STATE  
JASON KANDER AND RETURNING  
GOVERNMENT TO THE PEOPLE  
AND TODD S. JONES**

**RESPONDENTS.**

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DOCKET NUMBER WD80007

DATE: September 13, 2016

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Appeal From:  
Cole County Circuit Court  
The Honorable Patricia S. Joyce, Judge

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Appellate Judges:  
Special Division: Karen King Mitchell, Presiding Judge, Cynthia L. Martin, Judge and Anthony  
Rex Gabbert, Judge

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Attorneys:  
Charles W. Hatfield, Jefferson City, MO, for appellants.

James R. Layton, Jefferson City, MO, for respondent Jason Kander.  
D. John Sauer, St. Louis, MO, for respondent Returning Government to the People and Jones.

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**MISSOURI APPELLATE COURT OPINION SUMMARY**

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**MISSOURI SECRETARY OF STATE  
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GOVERNMENT TO THE PEOPLE  
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No. WD80007

Cole County

Before Special Division: Karen King Mitchell, Presiding Judge, Cynthia L. Martin, Judge and Anthony Rex Gabbert, Judge

Challengers to an initiative petition appeal from a trial court judgment denying claims that an initiative petition certified for inclusion on the ballot is unconstitutional as not ripe for pre-election judicial review.

**Affirmed.**

**Special Division holds:**

1. Before the people vote on an initiative, courts may consider only those threshold issues that affect the integrity of the election itself, *and* that are so clear as to constitute a matter of form. We will not look behind the face of the petition to determine its constitutionality prior to its being voted on by the electorate except to determine whether constitutional and statutory requirements pertaining to the form of the petition have been satisfied.

2. A violation of a constitutional provision pertaining to the procedure or form of an initiative petition that is so obvious as to constitute a matter of form is afforded pre-election review because such challenges do not seek an advisory opinion regarding the constitutionality of an initiative petition, if adopted. Rather, such challenges pertain primarily to the current constitutional status of an initiative petition, as they address compliance with express conditions precedent to placing a proposal on the ballot.

3. Challengers' First Amendment, Equal Protection Clause, and Privilege and Immunities Clause challenges do not claim a violation of a Missouri constitutional provision pertaining to the required procedure or form of an initiative petition, and even if they did, the issues presented are not so clear and settled a violation as to be an obvious matter of form. Challengers' claims are not ripe for pre-election judicial review.

Opinion by Cynthia L. Martin, Judge

September 13, 2016

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